Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion	))))))	GN Docket No. 19-285

COMMENTS OF INTERNET INNOVATION ALLIANCE

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The Internet Innovation Alliance[1] respectfully submits these comments in response to the Notice of Inquiry[2] issued by the Commission on October 23, 2019.

As with other commenters, we welcome the Notice of Inquiry. This annual exercise concerning the availability of advanced telecommunications services and "whether [they] is being deployed to all Americans in a reasonable and timely fashion"[3] is extremely important, not merely as complying with Congress' intent in requiring an annual Broadband Deployment Report, but as a marker to gauge progress and, equally if not more important, identify where gaps in access remain, in particular in rural and Tribal areas.[4]

Without minimizing the gaps that remain and the urgency of addressing them, the underlying trends in broadband[5] deployment are overwhelmingly positive. As the Commission notes in the NOI, "its efforts to remove barriers to broadband investment and promote competition in the telecommunications marketplace are enabling service providers to extend the reach of broadband networks to previously unserved areas in all corners of the nation."[6] Further, as the *2019 Report* showed, the majority of new broadband connections were in rural areas,[7] contributing significantly to narrow a persistent gap in broadband access.

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[1] The Internet Innovation Alliance (IIA) is a broad-based coalition of business and non-profit organizations that aims to ensure every American, regardless of race, income, or geography has access to the critical tool that is the broadband Internet. The IIA seeks to promote public policies that support equal opportunity for universal broadband availability and adoption so that everyone, everywhere can seize the benefits of the Internet education to health care, employment to community building, civic engagement and more. Available at http://www.internetinnovation.org/.
[2] Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, Fifteenth Broadband Deployment Report Notice of Inquiry GN Docket No. 19-285, available at https://www.fcc.gov/document/fcc-opens-annual-inquiry-broadband-deployment-0 (hereinafter "Notice of Inquiry" or "NOI").
[3] 47 U.S.C. §1302(b)
[4] See NOI, para. 5.
[5] These comments use the term 'broadband" in generic fashion to describe all deployments of broadband services, not merely the narrower "advanced telecommunications services" to which the statute refers. See NOI, n.2, citing to 47 U.S.C. §1302(d)(1).
[6] NOI, para. 1, citing to *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 18-238, 2019 Broadband Deployment Report, FCC 19-441, paras. 1-4, 76 (2019) (hereinafter "2019 Report").
[7] NOI, para. 3, citing to *2019 Report* at para. 2

Among the issues identified in the NOI, two in particular stand out for closer attention: the question of whether fixed and mobile broadband should be treated as full substitutes for purposes of the Commission's Broadband Deployment Report and whether the base speeds for the Commission's definition of "advanced telecommunications services" (the term in the statute for the purposes of this report) should be increased. We address each briefly in turn.

Unfortunately, we cannot agree with the Commission's position that "despite the increasing ubiquity and capabilities of mobile services, there was insufficient evidence in the record to conclude that mobile and fixed broadband services are full substitutes in all cases"[8] and thus that the "evaluative framework [the Commission] used in the *2019 Report*" should be maintained in this regard.[9]

While we recognize the utility, for the Commission and outside parties, of permitting "apples to apples" comparisons among different years by maintaining the framework of the *2019 Report*, the fact is that, over the past two years, the broadband market has evolved rapidly and sufficiently to permit – if not demand – the conclusion that mobile and fixed broadband are full substitutes and thus that the Commission's evaluative framework for the Broadband Deployment Report should be revised to reflect this change.

More specifically, we encourage the Commission to examine the question of the substitutability of fixed and mobile broadband from the perspective of consumers and their actual behavior in accessing the broadband internet. In 2018, IIA released a white paper ("Evolving Preferences")[10] on the question of how consumers view (and use) both fixed and mobile broadband. Based on a study of 10,000 U.S. consumers with sample sizes to ensure

[8] NOI, para. 8 (citing to 2019 Report, para. 11).
[9] NOI, para. 9.
[10] "Evolving Preferences: Consumer Preferences Tilting Towards Mobile Broadband," Internet Innovation Alliance (2018) available at https://internetinnovation.org/wp-content/uploads/IIA_ConsumerPreferences_Whitepaper.pdf.

statistically significant cross-tabulation for demographics such as race, age, and gender, the white paper concluded that consumers view fixed and mobile broadband as "functional substitutes."[11] Indeed, consumers had shifted to use mobile broadband for activities of daily living such as doing homework or applying for jobs that had once been exclusively the province of fixed broadband. The study found that "[n]early 1 in 2 U.S. households with children have used mobile devices to complete homework assignments in the past year. And 1 in 4 U.S. consumers have used mobile devices to apply for a job in the past year."[12] Bandwidth-intensive services such as video streaming and watching news programs have also become popular uses of mobile broadband.

Further, these trends were "common across different demographic groups of consumers – meaning rural and urban consumers, younger and older consumers, and consumers of different races share similar preferences and perform similar activities viewing fixed and mobile broadband as functional equivalents."[13]

Not only do mobile broadband connections outnumber fixed connections,[14] but data traffic on mobile broadband connections appears to have already surpassed that on fixed broadband connections – a result that would have been impossible if consumers did not view fixed and mobile broadband as functional equivalents. The market has evolved radically from Congress' expectations in enacting Section 706 of the Telecommunications Act.[15]

The conclusions of the Evolving Preferences study have, if anything, only gained force and the trends it described have only accelerated over the past year. The overall market for

[11] Id at 3.
[12] Id. at 4.
[13] Id.
[14] Id. at 9
[15] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified at 47 U.S. C. §1302).

broadband access remains intensely competitive, and consumers continue to use mobile broadband for newer and data-intensive applications rather than waiting until they have access to fixed broadband at their home or office. Fixed and mobile broadband are therefore functional equivalents and functional substitutes in terms of how tens of millions of consumers actually access and use the broadband internet. The Commission should now recognize this fact.

As in Commissioner O'Rielly's statement accompanying the NOI, we therefore likewise express "some disappointment over the Commission's reluctance to acknowledge the substitutability of mobile and fixed broadband among increasing numbers of consumers, and [the Commission's] continued reliance on a technologically anachronistic evaluation framework."[16] The arc of consumers' use of both fixed and mobile broadband services has clearly shifted; if consumers increasingly view these services as functionally interchangeable for the purposes for which they access the broadband internet, then there is no reason for the Commission not to convey this – especially here where Congress has expressly charged the Commission to determine the rate of access to advanced telecommunications services.

On the second major issue, the question of whether the base speeds for what constitutes "broadband" should be increased, here we accept the position of the NOI.[17] Quite simply, there is a distinction between a standard for a government report and what is actually happening in the marketplace. To be clear, we do not regard in any way the current standard of 25 Mbps/3 Mbps as the sum of technological progress. We believe ever-faster broadband is better and more versatile, better able to meet the needs of 21st century America, its consumers and businesses.

Fortunately, this positive trend in broadband speeds is exactly what is happening in the marketplace. Broadband providers are competing aggressively on the speed of their service and

[16] NOI, Statement of Commissioner Michael O'Rielly (internal footnote omitted).
[17] NOI, para. 11.

some, such as cable providers, offer different tiers of broadband speeds at different price points. This is all consistent with a well-working market. Indeed, the *2019 Report* notes that "higher speed services are also being rapidly deployed, with a majority of rural Americans, more than 37 million, having access to 100 Mbps/10 Mbps broadband. Overall, the number of Americans with access to 250 Mbps/25 Mbps broadband climbed 36% in 2017 to more than 190 million."[18]

Given this progress, why should the Commission's definition of "advanced telecommunications services" remain at its current level? There are two principal reasons.

First, the Broadband Deployment Report presents data on exactly that: deployment of "advanced telecommunications services" or, more colloquially, broadband. Deployment provides *access* to broadband at increasingly higher speeds; it does not of itself predict *adoption* of broadband at those higher speeds. While we certainly encourage Americans to obtain faster broadband where possible and enjoy the benefits it brings, Congress charged the Commission with measuring deployment rather than adoption. Broadband providers have a clear financial interest in promoting adoption by providing those services at rates which encourage purchase of them. Yet what Congress sought to measure – the deployment of advanced telecommunications services in a reasonable and timely fashion – is captured by the current measure.

There is no need for the Commission to interfere in this market by prescribing a higher speed below which a service should not count as "advanced telecommunications services" or "broadband." In 2019, as they have for years, broadband providers are constantly increasing speeds in response to competitive pressures and as a result of new deployments thanks to policies that promote investment, such as the *Restoring Internet Freedom* order, which the Commission

[18] NOI, para. 3, citing to *2019 Report*, paras. 38 and 2.

adopted in December 2017.[19] We expect this positive trend to continue and indeed accelerate as the Nation transitions to 5G wireless broadband, major deployments of which have been both announced and implemented in the past two years, particularly since the *2019 Report*.[20]

The Commission rightly notes that many people, particularly in rural and Tribal areas,[21] do not enjoy the fastest possible broadband speeds or even any access to advanced telecommunications services. Yet policies that reward investment in broadband, such as the *Restoring Internet Freedom* order and other work the Commission has done to speed broadband deployments, rather than simply changing the definition of "advanced telecommunications services," will make the difference for those Americans not yet served or underserved.

In conclusion, we welcome this annual exercise both as a discipline and as a way to measure progress in the broadband marketplace. Remarkable progress has been made,[22] but as the Commission rightly recognizes, "our work to close the digital divide [is] not complete."[23] We eagerly await the results of this NOI and of the Commission's report to follow from it. Thanks to policies that reward investment and promote innovation and the pressures of a

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[19] *In the Matter of Restoring Internet Freedom*, WC Docket 17-108, Declaratory Ruling, Report and Order, and Order (2017) available at https://www.fcc.gov/document/fcc-releases-restoring-internet-freedom-order

[20] Among many articles and analyses describing this trend, *see, e.g.*, Christian de Looper, "Verizon's 5G service is now available in Dallas and Omaha; *Digital Trends*, Oct. 25, 2019, available at https://www.digitaltrends.com/mobile/verizon-5g-rollout/; Sprint, "Sprint 5G Overview," Nov. 1, 2019, available at https://newsroom.sprint.com/sprint-5g-overview-1-2.htm; Dan Jones, "AT&T to Begin Standalone 5G Rollout Next Year," *Light Reading*, Oct. 9, 2019, available at https://www.lightreading.com/mobile/5g/atandt-to-begin-standalone-5g-rollout-next-year-/d/d-id/754717 ; Matt Kapko, "T-Mobile Accelerates 'Nationwide' 5G on 600 MHz," SDX Central, Oct. 23, 2019, available at https://www.sdxcentral.com/articles/news/t-mobile-us-accelerates-nationwide-5g-on-600-mhz/2019/10/; Reinhardt Krause, "5G Wireless Mid-Band Waves Open Doors for Cable, Internet Firms, *Investors Business Daily*, Sept 12, 2019; available at https://www.investors.com/news/technology/5g-wireless-5g-networks-midband-spectrum/; Mike Dano, "Comcast, Charter to Offer 5G Via Verizon MVNO, *Light Reading*, Aug, 23, 2019, available at https://www.lightreading.com/mobile/5g/comcast-charter-to-offer-5g-via-verizon-mvno/d/d-id/753664. f

[21] NOI, para. 5.

[22] See, e.g., U.S. Telecom, "Broadband Investment," available at https://www.ustelecom.org/research/broadband-investment/ ("Broadband provider network capital expenditures in 2017 were $76 billion, according to USTelecom's annual broadband investment research report. With investments totaling more than $1.6 trillion since 1996, the broadband industry is a core component in capital investment spending, contributing to the overall health of the U.S. economy.");

[23] NOI, para. 5.

competitive broadband marketplace, we expect that the 2020 Broadband Deployment Report and those in future years will continue to show a story of progress in the important task of ensuring that all Americans have access to fast, reliable broadband, no matter how they access the broadband internet. IIA stands ready to assist the Commission in this common goal.